(3)
(7)
C.S.P.

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR**

**CHHATTISGARH**

**W.P. No. 3523 of 2004**

**PETITIONERS** 1. Shahid Mohammad, S/o. Shaikh Mohammad, aged 32 years,

**Defendants** 2. Smt. Sehenaaz Begam, W/o. Shaikh Mohammad, No Occupation,

Both Resident of Near Mission School, Rajendra Nagar, (Ghasiapara), Tahsil-Bilaspur, District – Bilaspur (C.G.)

P.R. No. 345-1/04
Presented by Smt. Hamida Siddiqui
dated 22-9-04

**VERSUS**

**RESPONDENTS** 1) Shankar, S/o. Tahsmal Dhanwani, Aged about 28 years,

2) Dilip, S/o. Govindmal Dhanwani, aged about 25 years.

3) Kesumal Dhanwani, S/o. Govindmal Dhanwani, aged about 68 years.

Occupation of Respondent no.1 to 3 – Trader, Resident of Respondent No.1 to 3 – Rajendra nagar (Ghasiapara), Tahsil – Bilaspur, District – Bilaspur (C.G.)

4) Gulzaar Begam, W/o. Abdul Ajiz, aged about 61 years, Resident of Bhilai Sector – 6, Street No. 39, Quarter No. '1-A', Distt. Durg (C.G.)

**WRIT PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA**

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** W.P.No.3583/04 **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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| | **24-1-2005**<br>Smt. Hamida Siddique, counsel for the petitioners.<br>Heard on admission.<br>The petitioners have preferred this petition under Article 227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 4-8-2004 passed by the 3rd Additional District Judge, Bilaspur in Civil Suit No.42-A/2002 on an application of the petitioners herein under Order 1 Rule 10 of the C.P.C. whereby the learned Additional District Judge has rejected the application of the petitioners herein.<br>Brief facts leading to filing of this writ petition are that respondents No.1 to 4 herein have filed a civil suit against the petitioners herein on the ground that the house mentioned in para-1 of the plaint demarcated as अ, ब, स, ख, क, ड, अ in the attached schedule of the plaint is the house of respondent No.4 herein and she is the owner of that house. Three tenants of Gulzar Begum are residing in whole house. The petitioner No.2 herein is the tenant of respondent No.4 herein in the portion अ, ब, स, ख, क, ड, अ at the rate of Rs.50/- per month since long. In one portion Kesumal Gulzar was the tenant who has expired leaving behind four sons and the portion which was with Kesumal has been purchased by his sons namely Laxmandas and Narayandas vide Registry dated 31st May 1989. Out of | |

GRPRJ—FS/350—12/2000—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक**.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -2- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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three tenants of Gulzar Begum, one is Jabbar, portion of which has been shown adjacent to the portion of the petitioners herein in the map. Plaintiff Nos.1 and 2 Shankar and Dilip have purchased the land from Gulzar Begum. Notice was given to the petitioner No.2 herein for rent from 1-11-98 to 31-12-98, but the petitioner No.2 herein refused to pay the rent. Therefore, the suit has been filed on the ground of landlord and tenant's relationship against the petitioners herein.

The defence of the petitioners herein is that they are not the tenants of the respondents. No rent is outstanding against them. This is their ancestral house. The petitioners herein filed an application under Order 1 Rule 10 of the C.P.C. for adding four persons i.e. sons of Jabbar as defendants mentioned in the application. It was further mentioned that certain other persons are residing in the area which was purchased by the plaintiff from plaintiff No.4. They have not been arrayed as defendants whereas, they are in possession, therefore, they are the necessary party and they should be arrayed as defendants.

The learned trial Court after hearing the arguments rejected the application holding that the plaintiffs have mentioned in the plaint that the defendants are in possession of land ब, स, ख, क, ड, अ and portion on which Jabbar's possession has been shown in the schedule

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक**.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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| | annexed with the plaint, no suit has been filed against Jabbar and his heirs and no relief has been sought against Jabbar, therefore, they are not necessary party and same has been rejected.<br>Perusal of the impugned order, plaint and written statement shows that the respondents herein have filed a civil suit against the petitioners herein for eviction and arrears of rent regarding the house marked as ब, स, ख, क, च, अ in the annexed schedule अ and the heirs of Jabbar has been shown in the adjoining land. Since the respondents/plaintiffs have sought relief against the petitioners herein on the ground that they are their tenants, therefore, the heirs of Jabbar, as mentioned in the application filed by the petitioners herein, are not necessary party and the application has been rightly rejected by the trial Court.<br>Learned counsel for the petitioners has failed to point out any illegality and infirmity in the order impugned. The writ petition is liable to be dismissed and it is accordingly dismissed.<br>Consequently, M.(W.)P. No.3073/2004 also stands disposed of.<br>**Sd/-**<br>**L.C. Bhadoo**<br>**Judge** | |
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